

Bob James

Date: April 7, 1997

To: Federal Communications Commission

From: Lawrence G. Murray, MAS Applicant

Subject: Lottery of MAS 932/941 MHz Spectrum
WT Docket No. 97-81*I appreciate your input -
hope this memo will get
circulated before MAS discussion.*

My hope is these thoughts will reach you before your deliberations this month regarding the MAS spectrum.

1. The FCC made a formal public commitment to the MAS lottery many years ago (see quote from FCC Bulletin No. DA 91-1422 in the footnote *). As a result, applications were filed and fees were paid in good faith in precise time windows during January and February 1992. It may not have happened on your watch, but in accepting fees the FCC was joined in binding contracts to conduct said lottery. The whole world of responsible business operates on this principle. Payment in advance is exceptional, five years in advance is extraordinary.
2. It is my understanding the Omnibus Budget Reconciliation Act of 1993 allowed the FCC to proceed with the MAS lottery. It did not mandate, but apparently permitted some discretion under certain circumstances to employ competitive bidding procedures. It is hard to imagine how this could apply to the MAS lottery, much less on a retroactive basis.
3. In all fairness the question of lottery vs. auction is moot, but should have no bearing on MAS discussion more than five years after the fact. I believe the lottery/ auction debate falls in the philosophical-political category, and is badly in need of public debate. "Certain circumstances" referred to in item 2 above also beg a public airing. My concern is, we may have a few autocratic bureaucrats among us who view MAS applicants as Johnny Appleseed entrepreneurs who lack deep pockets and somehow don't fit the mold of suitable holders of the wireless spectrum. Or perhaps they feel undue pressure to simply raise money.
4. Your selling of the wireless spectrum is akin to selling the Brooklyn Bridge. You don't own it, and you don't add much value to the product. I thought your real charter was to regulate the industry, not tax it. The major conglomerates in the telecommunications industry may have resources to pay your auction prices, but this increases their cost of doing business. To net a reasonable return on investment, they simply raise prices to the end user/consumer. The major players cough up billions of dollars to help reduce the federal debt, then pass the charge on to the little guy. It smells like just another hidden tax.

I am attaching tearsheets from the Minneapolis Star Tribune of letters to the editor from former Senator Larry Pressler and myself to further clarify my position.

In all these years, we have been looking for an honest, fair, prompt decision about this small segment of the wireless spectrum.

Very truly yours,



Lawrence G. Murray, Partner, Mind Communications
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* Quote from FCC Public Notice DA 91-1422, GENERAL DOCKET No. 82-243, Page 5:

"Finally, we emphasize that our decision to employ a lottery leading to the award of licenses for the MAS channels under consideration herein is based solely on reasons of administrative convenience to facilitate the overall licensing process".

Pass the telecom bill 1/17/96

Molly Ivins (Commentary, Jan. 11) laments corporate downsizing and stagnant wages, suggesting that while workers suffer, corporations get fat on "corporate welfare" giveaways. Ivins picks the telecommunications reform bill now before Congress as an example of corporate welfare run amok.

The truth is the telecommunications reform bill is one of the biggest jobs bills before Congress. Opening up the telecommunications industry to competition means an explosion of technological innovation and entrepreneurship, leading to the creation of millions of new jobs in the future.

Yes, AT&T and some other "communications giants" are downsizing, and many good men and women are looking for new opportunities. But for every corporate Goliath shedding workers, I foresee a thousand corporate Davids taking their place. It is these small, start-up companies that will be the engines of employment for the next century.

Ivins also faults the telecommunications reform bill because of what she describes as a giveaway of the digital spectrum to broadcasters. The telecommunications bill does not mandate how the "digital" spectrum will be allocated. Since the beginning, I have been a strong supporter of allowing the marketplace to allocate the digital spectrum through the medium of a public auction. The bill does not mandate any giveaway.

— *U.S. Sen. Larry Pressler, R-S.D., chairman, Committee on Commerce, Science and Transportation.*

Star Trek 1/24/96 To level the digital field

Sen. Larry Pressler's Jan. 17 letter says that the pending telecommunications reform bill will open the industry to competition, and adds that he has been a strong supporter of letting the marketplace allocate the digital spectrum through public auctions.

Believe me, public auctions will be best suited to monopolistic conglomerates with deep pockets that happen to be major lobbyists and contributors to party coffers — not as Pressler says, the "small start-up companies that will be the engines of employment for the next century."

A public lottery of the digital spectrum, as previously conducted by the Federal Communications Commission for the cellular spectrum, is the only way to achieve leveling of the field. Pressler, R-S.D., is terribly naive or working hard to fund his next campaign.

— *Lawrence G. Murray, Tonka Bay.*

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